

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

PEIERLS FOUNDATION INC. and  
E. JEFFREY PEIERLS, individually  
and as trustee

Plaintiffs,

v.

JAMES E. RURKA, MARK SKALETISKY,  
PAUL J. MELLETT, RICHARD ALDRICH,  
KATE BINGHAM,  
CHARLES W. NEWHALL III,  
DAVID SCHNELL, and JOHN P. WALKER

Defendants.

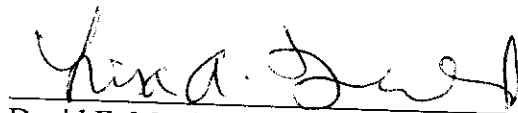
Civil Action No. 03-12213 EFH

**PLAINTIFFS' ASSENTED-TO MOTION FOR LEAVE TO FILE A  
SURREPLY MEMORANDUM TO DEFENDANTS' REPLY MEMORANDUM**

Now come the Plaintiffs, with the assent of Defendants, and request this Court for leave to file a Surreply brief to Defendants' reply memorandum in support of their motion to dismiss. As grounds therefore, Plaintiffs state that they require a brief Surreply to respond to the arguments made in Defendant's reply, to clarify facts, and to assist this Court in its determination of this matter. Plaintiffs' proposed Surreply is filed with this Motion.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to allow their Motion for Leave to File A Surreply.

Respectfully submitted,



David E. Marder, Esq. (BBO #552485)

Lisa A. Furnald, Esq. (BBO #631059)

Attorneys for Plaintiffs

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

111 Huntington Street, Suite 1300

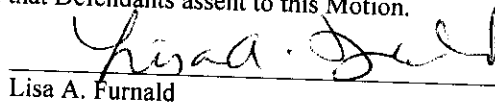
Boston, MA 02199

(617) 267-2300

Dated: March 26, 2004

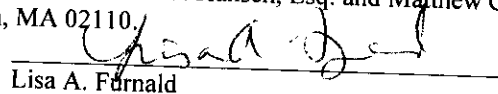
**LOCAL RULE 7.1(A)(2) CERTIFICATION**

I hereby certify that on March 23, 2004, counsel conferred in accordance with Local Rule 7.1 in an attempt to resolve or narrow the issue raised in this Motion, and that Defendants assent to this Motion.

  
Lisa A. Furnald

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of March, 2004, a true and correct copy of the above and foregoing was served via facsimile and first class mail, postage prepaid to: Steven W. Hansen, Esq. and Matthew C. Applebaum, Bingham McCutchen LLP 150 Federal Street Boston, MA 02110.

  
Lisa A. Furnald